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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2349 OF 2005

Kishan Ramji Thete Petitioner
versus
The Dy.Registrar, Co-op.Soc.
and others Respondents

Mr.P.N.Joshi for petitioner.
Mr.M.S.Karnik for respondent no.2.

CORAM : A.S.OKA, J.

DATE : 01st March 2007

PC :

1. The submissions of the advocates appearing for the parties were heard. The submission of learned advocate for the petitioner is that revision application preferred by the applicant has been dismissed by holding that he has no locus standi to file revision application and to challenge the Recovery Certificate issued under section 101 of the Maharashtra Co-operative Societies Act, 1960. His submission is that the view taken by the Divisional Joint Registrar is contrary to the orders passed by this Court in the earlier writ petition. He submitted that in

any event 50% of the amount deposited by the petitioner ought to have been refunded as the revision application filed by him is held as not maintainable and it is not decided on merits. The learned counsel appearing for the second respondent opposed the submissions by referring to various documents placed on record.

2. It appears that the third respondent is the borrower of the second respondent. The petitioner is the father of the third respondent. In the revision application preferred by him for challenging the Recovery Certificate u/s 101 of the Maharashtra Co-operative Societies Act, 1960 issued against the third respondent, the contention of the petitioner was that shop no.17 situate at Landmark Apartment, Nashik was owned and possessed by him and the said shop was likely to be proceeded against for recovery of the dues under the Recovery Certificate. A perusal of the documents on record shows that the petitioner after obtaining the consent of the second respondent sold the said shop no.17. The sale proceeds were deposited in Savings Bank Account and out of the sale proceeds, a sum of Rs.4.15 lakh was deposited by the petitioner with the second respondent bank. The petitioner also

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obtained a letter thereafter from the second respondent recording that the charge created in favour of the second respondent bank has been cancelled. The petitioner also obtained a letter from the second respondent by which it was mentioned that the charge created on his residential flat was cancelled. The record discloses that a further amount is still due and payable under the Recovery Certificate. Considering the aforesaid circumstances and especially considering the sale of the shop premises with the consent of second respondent, there was no merit in the case of the petitioner. Considering the voluntary payment made by the petitioner, no question arises of repayment to the petitioner. In the circumstances, no interference is called for. Petition stands dismissed with no order as to costs.

(A.S.OKA, J.)